STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Charles E. Stewart Map 92, Control Map 92, Parcel 14.00 S.I. 1.00 Residential Property Tax Year 2006	)))))	Putnam County

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$33,300	$0	$33,300	$8,325

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on July 28, 2006.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on December 14, 2006, at the Cookeville DPA Office in Cookeville, Tennessee. Present at the hearing were Mr. Charles E. Stewart, the taxpayer who represented himself, and Mr. Gary Maynard representative of Rhonda Chaffin, Assessor of Property for Putnam County.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a thirty-five (35) acre tract of vacant land[1] located on Baxter Herd Road in Cookeville, Tennessee.

The taxpayer, Mr. Stewart, contends that the property is worth "between $15,000 and $20,000. He purchased the property in 1982 when his grandmother passed away and he wants the land to stay in the family". Mr. Stewart stated that in 2001 when the property took a jump from $13,500 to $25,000, he called the Assessor's Office and spoke with Ms. Chaffin and explained that the property is on a hill with nowhere to build; he told her that he had loggers come in to look at the timber on the land and was told that the quality of the wood was not profitable enough and that the hill was too steep to gain access. Mr. Stewart states that the property was returned to the value of $12,300 (this information was supported by the property record card from the County's representative,

[1] Mr. Stewart notes on his appeal form that the land is "not used for any purpose for more than 15 years, not enough clear land to qualify for Greenbelt".

Mr. Maynard.) Mr. Maynard continues by stating that "It is not a farm, only vacant land that is wooded but not marketable".

The assessor contends that the property should be valued at $33,300, the amount set by the action of the Putnam County Board of Equalization.[2]

The germane issue is the value of the property as of January 1, 2006.

The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . . ."

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at $33,300 based upon the presumption of correctness attaching to the decision of the Putnam County Board of Equalization.

It has been agreed by both parties that the subject property has topographical issues, in that it is too steep to be considered buildable. However, Mr. Stewart's argument that it should be further reduced because of this deficiency and road access is not supported by credible evidence[3]. Mr. Stewart argues that the comparables used by the County are not comparable because they enjoy a 'Greenbelt' classification and have acreage that is tillable and land that is level. [4]

The taxpayers' argument for equal treatment is without merit. The case law is replete with cases that essentially hold that it is of no consequence how much or how little your neighbors' property is valued but being able to demonstrate by **competent** evidence the fair market value of your own property that is essential in proving the County Boards values are incorrect.

As the Assessment Appeals Commission noted in *Payton and Melissa Goldsmith*, Shelby County, Tax year 2001, in quoting the Tennessee Supreme Court in the case of Carroll v. Alsup, 107 Tenn. 257, 64 S.W.193 (1901):

> It is no ground for relief to him; nor can any taxpayer be heard to complain of his assessments, when it is below the actual cash value of the property, **on the ground that his neighbors' property is assessed at a less percentage of its true actual**

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[2] It should be noted that the property record card for 2007 introduced at the hearing by Mr. Maynard shows that Parcel 14.00 has a total appraised value of $33,300 which he believes is the current value of the property because the card shows the value was set on July 26, 2006, Mr. Stewart has a copy of the property record card for 2006 which shows a value of $54,700; however, a copy of the report from the County Board shows that Mr. Stewart appealed 2 parcels of property, on Parcel 17.00 there was "no change", however, on Parcel 14.00 the document clearly shows the value at $33,250 with an assessment of $8,313. The Assessor 'rounded up' the assessment to $33,300 which of course changed the assessment to $8,325.

[3] While Mr. Stewart produced several photographs, and a DVD of the subject there are no corresponding analysis to show what the financial impact of these conditions on the subject, nor an adjusted comparison to other properties. Mr. Stewart is also mistaken that it is the County's responsibility to have a separate independent appraisal conducted if he (the taxpayer) disagrees with the values assessed by the County.

[4] On December 20, 2006, the administrative judge received a packet of information that the taxpayer wanted considered in making a decision in this matter, having received no objection from the County, the materials were reviewed and considered.

> **value than his own.** When he comes into court asking relief of his own assessment, he must be able to allege and show that his property is assessed at more than its actual cash value. He may come before an equalizing board, or perhaps before the courts, and show that his neighbors' property is assessed at less than its actual value, and **ask to have it raised to his own,** . . . (emphasis supplied)

In a decision of the State Board of Equalization from April 10, 1984, cited as *Laurel Hills Apartments, et. al.* (Davidson County, Tax Years 1981 and 1982) holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the "Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and **equalized by application of the appropriate appraisal ratio** . . ." Id. at 1. (emphasis added)

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

> In contending the entire property should be appraised at no more than $60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more under appraised than average **does not entitle him to similar treatment.** Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not **adequately indicated how the properties compare to his own in all relevant respects**. . . . (emphasis added) Final Decision and Order at 2.

See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were under appraised . . ." Final Decision and Order at 3.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board,* 620 S.W. 2d 515 (Tenn. App. 1981).

With respect to the issue of market value, the administrative judge finds that Mr. Stewart simply introduced insufficient evidence to affirmatively establish the market

value of subject property as of January 1, 2006, the relevant assessment date pursuant to T. C. A. § 67-5-504(a).

The administrative judge finds that rather than talking about "lack of steepness" of neighboring lots, the comparisons/differences must be adjusted. As explained by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, **but relevant differences should be explained and accounted for by reasonable adjustments.** If evidence of a sale is presented **without the required analysis of comparability,** it is difficult or impossible for us to use the sale as an indicator of value. . . . Final Decision and Order at 2. (emphasis added)

In analyzing the arguments of the taxpayer, the administrative judge must also look to the acceptable standards in the industry when comparing the sales of similar properties.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

> To apply the sales comparison approach, an appraiser follows a **systematic** procedure:
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> 1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
> 2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
> 3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
> 4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then ***adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable.*** This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
>
> Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001). *Andrew B. & Majorie S. Kjellin,* (Shelby County, 2005)

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$33,300	$0	$33,300	$8,325

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 23rd day of January, 2007.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Charles E. Stewart
Rhonda Chaffin, Assessor of Property